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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : JON K. CURRY
SERIAL NO. : 09/526,777
FILED : March 16, 2000
FOR : ANIMAL TOY

DECLARATION BY JON K. CURRY UNDER 37 C.F.R. 1.132,
MPEP Section 708.02

Now comes Jon K. Curry declares that:

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1. He is applicant in the above-identified application.
2. He, or his licensee, Kong Co. of Golden, Colorado, have in about the last two years prior to 2003 sold in excess of **2,000,000** animal toys as described by one or more of the pending Claims 12 to 14 in the above-identified application. These toys have been sold under the trademarks "AIR DOG", "KONG" and "THREE DOGS AND A CAT" in the countries of the United States, UK, Canada, New Zealand, and Japan.

I hereby certify that this correspondence is being deposited with the United States Postal Service as CERTIFIED MAIL NO. 7002 0510 0002 1154 5535 RETURN RECEIPT REQUESTED in an envelope addressed to: HON. COMMISSIONER OF PATENTS AND TRADEMARKS, Washington, D.C. 20231 on February 7, 2003.

TOD R. NISSE, Reg. No. 29241

DATE

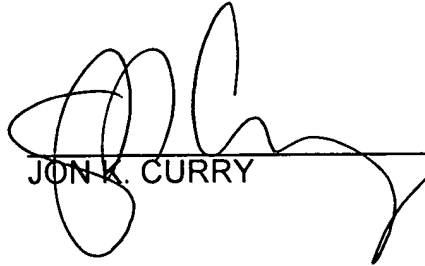
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- 1 3. He, or his licensee, Kong Co. of Golden, Colorado, are currently as of January 2003
2 selling **monthly** about **250,000** animal toys as described by one or more of the
3 pending Claims 12 to 14 in the above-identified application.
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- 5 4. EXHIBIT A attached hereto includes promotional literature of Applicant and some
6 of Applicant's distributors.
7
- 8 5. EXHIBIT B attached hereto includes promotional literature from New England
9 Serum Company, now Pet Edge, showing that New England Serum Company:
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- 11 a. Carried Applicant's "AIR DOG" products in its "EARLY HOLIDAY 2001"
12 catalog;
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- 14 b. Carried Applicant's "AIR DOG" products in its "WINTER 2002" catalog, but
15 also began selling its own "ZANIES" products, which "ZANIES" products
16 appear identical to Applicant's products; and,
17
- 18 c. Carried only its "ZANIES" products in its "WINTER 2003" catalog.
19
- 20 6. Declarant understands that (1) any willful false statements and the like made herein
21 are punishable to fine or imprisonment, or both (18 U.S.C. 1001) and may
22 jeopardize the validity of the application or any patent issuing thereon, and (2) all
23 statements made of Declarant's own knowledge are true and that all statements
24 made on information and belief are believed to be true.
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Further Declarant saith naught.

Respectfully submitted,


JON K. CURRY